

**IN THE CIRCUIT COURT
FOR ALLEGANY COUNTY, MARYLAND**

STATE OF MARYLAND

v.

**CAMERON ELIJAH NAECKER,
Defendant**

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Case No.: C-01-CR-23-000588

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**DEFENDANT'S REQUEST FOR DISCOVERY
AND MOTION TO PRODUCE DOCUMENTS**

Now comes the above-named Defendant, by and through Counsel, Raymond F. Weston, Assistant Public Defender, and respectfully requests the following in accordance with Maryland Rule 4-263, common law and the United States and Maryland Constitutions, on behalf of the defendant in the above-entitled action:

A. The requests extend to material and information in the possession or control of the State's Attorney, members of his staff and any others who have participated in the investigation or evaluation of the case and who either regularly report or, with reference to particular case, have reported to the State's Attorney for his office.

B. The purpose of these requests is to obtain disclosure of material and information to the fullest extent authorized and directed by Maryland Rule 4-263; and this general purpose shall supersede any language or expression which might otherwise appear to be a limitation upon the object or scope of any request.

C. Captions or headings used to separate paragraphs are not part of the requests, but are for convenience only.

D. Material and information discovered by the State's Attorney after his initial compliance with these requests, shall be furnished promptly after such discovery in accordance with Maryland Rule 4-263 (a), (h) and (j).

E. These requests in no way should be considered a waiver of the information required to be furnished without request by the State's Attorney pursuant to Rule 4-263 (a) and (d) to the Defendant.

The State's Attorney is requested to:

Statements

1. Furnish to the Defendant all written and all oral statements of the defendant that relate to the offense charged and all material and information, including documents, reports and recordings, that relate to the acquisition of such statements;

2. Furnish to the Defendant all written and all oral statements of any co-defendant, and/or accomplice, and/or accessory after the fact that relate to the offense charged and all material and information, including documents, reports and recordings, that relate to the acquisition of such statements;

Criminal Record

3. Furnish to the Defendant the complete criminal history including any and all items pertaining to the defendant's prior criminal convictions, pending charges and probationary status;

4. Furnish to the Defendant the complete criminal history including any and all items

pertaining to any co-defendant's prior criminal convictions, pending charges, and probationary status;

State's Witnesses

5. Furnish to the Defendant the name and address of each State's witness whom the State's Attorney intends to call to prove the State's case in chief or to rebut alibi testimony

6. Furnish to the Defendant all written statements made by each State's witness whom the State's Attorney intends to call to prove the State's case in chief or to rebut alibi testimony

7. Furnish the Defendant with the names, addresses, and physical descriptions of any persons other than the Defendant who were arrested or otherwise taken into custody by police or prosecution officials as a possible suspect in this case in which the Defendant is charged;

Prior Conduct

8. Furnish to the Defendant all evidence of other crimes, wrongs, or acts committed by the defendant that the State's Attorney intends to offer at a hearing or at a trial pursuant to Maryland Rule 5-404(b);

Exculpatory Information

9. Furnish to the Defendant all material or information in any form, whether or not admissible, that tends to exonerate the defendant or negate or mitigate the defendant's guilt or punishment as to the offense charged;

Impeachment Information

10. Furnish to the defendant all material or information in any form, whether or not admissible, that tends to impeach a State's witness, including:

- a. evidence of prior conduct to show the character of the witness for untruthfulness pursuant to Maryland Rule 5-608(b);
- b. a relationship between the State's Attorney and the witness, including the nature and circumstances of any agreement, understanding, or representation that may constitute an inducement for the cooperation or testimony of the witness;
- c. prior criminal convictions, pending charges, or probationary status that may be used to impeach the witness;
- d. an oral statement of the witness, not otherwise memorialized, that is materially inconsistent with another statement made by the witness or with a statement made by another witness;
- e. a medical or psychiatric condition or addiction of the witness that may impair the witness's ability to testify truthfully or accurately;
- f. the fact that the witness has taken but did not pass a polygraph examination; and
- g. the failure of the witness to identify the defendant or a co-defendant;

Searches, Seizures, Surveillance and Pretrial Identification

11. All relevant material or information regarding:

- a. specific searches and seizures, eavesdropping, and electronic surveillance including wiretaps; and
- b. pretrial identification of the defendant by a State's witness;

Reports or Statements of Experts

12. As to each expert consulted by the State's Attorney in connection with the action, provide the defendant with:
- a. the expert's name and address, the subject matter of the consultation, the substance of the expert's findings and opinions and a summary of the grounds for each opinion;
 - b. the opportunity to inspect and copy all written reports or statements made in connection with the action by the expert, including the results of any physical or mental examination, scientific test, experiment, or comparison; and
 - c. the substance of any oral report and conclusion by the expert

Evidence for Use At Trial

13. Produce and permit the Defendant to inspect, copy and photograph any books, papers, documents, recordings, photographs or other tangible things that the State's Attorney intends to use at a hearing or trial.

14. Permit the Defendant to inspect any photographs which police or prosecuting authorities may have exhibited to any witness for purposes of identification of the Defendant, and any other Defendant, and furnish the Defendant with copies of said photographs, the names and addresses of witnesses who viewed said photographs and the results of each viewing of said photographs.

15. Produce and permit the Defendant to inspect, copy and photograph any

computer-generated evidence that the State's Attorney intends to use at a hearing or at trial;

Chain of Custody

16. Permit the Defendant to inspect any law enforcement report containing the chain of custody of the person of the Defendant, or his property, beginning with the time of the Defendant's arrest and continuing throughout the time that the Defendant was in custody of any police or prosecuting authorities.

17. In the event the law enforcement authorities have not prepared the type of report relating to custody of the Defendant, or his property referred to in the paragraph above, to furnish the Defendant with the names and addresses of all persons who had custody or control of the Defendant or who participated in the custody or control of the Defendant beginning with the arrest of the Defendant and continuing throughout the time that the Defendant was in custody of any police or prosecuting authorities.

Defendant's Property

18. Produce and permit the Defendant to inspect, copy and photograph any and all item(s) obtained from or belonging to the Defendant, whether or not the State intends to use the item at a hearing or trial.

***Cole* Material**

19. The Defendant by counsel, pursuant to *Cole v. State*, 378 Md. 42, 835 A.2d 600 (2003), further requests the State's Attorney furnish:

- a. The name of the chemist or analyst who performed any laboratory examination of the alleged CDS in this case, and the results of any proficiency tests given to this chemist or analyst by their employer;

- b. All materials listing the drug-identification procedures used by the drug laboratory in this case pursuant to COMAR 10.10.09.04 or any similar Federal regulation.
- c. The protocols used for analyzing controlled dangerous substances.
- d. The instrument conditions for each method used in analyzing controlled dangerous substances in this case including, but not limited to, all temperature records, any specific columns which were used, the source, nature, content and testing with regard to any solvent or carrier gas which was used in this case.
- e. The methods used in analyzing controlled dangerous substances and a copy thereof.
- f. Record of the instrument operating conditions and criteria for variable, including as appropriate: GC column, lab file ID, tuning criteria, instrument performance check (e.g. ion abundance criteria), initial calibration, continuing calibration checks.
- g. Results of calibration checks and mass traceability for gravimetric determinations limited to the case at bar.
- h. Copy of laboratory's Quality Manual (however named).

Official Reports

- 20. Furnish copies of all crime laboratory reports pertaining to this case.
- 21. Furnish copies of all offense reports or other official police reports pertaining to these offenses.
- 22. Supply copies of any and all medical reports that the State has or wishes to introduce into evidence with respect to these cases.
- 23. Permit Defendant to see, inspect, photocopy, and/or copy any photographs, diagrams, blueprints, lay outs, or plans of the grounds or buildings or the premises involved in these

proceedings which are in the possession of the State.

24. Allow Defendant to see, inspect, and view any photographs, films, slides, or moving pictures containing relevant evidence in this case which the State has in its possession or intends to use in the preparation for trial and/or trial in this case.

Law Enforcement Officers

25. Produce and permit the Defendant to inspect, where probable cause to arrest or search is in issue, the tapes and logs of police calls.

26. Produce and permit the Defendant to inspect evidence of any past alleged misconduct or departmental investigation, and all other pertinent details relative thereto, of any witness who was a member of a law enforcement agency and who investigated, or whose agency participated in the investigation of, the alleged offenses, and/or who has since been reprimanded, disciplined, suspended or discharged therefrom.

27. Identify by name and address all persons who, during the investigation of this cause, have been offered immunity, favorable consideration, lesser pleas or other agreements in return for testimony, information or documents. Indicate the name and address of each witness who claims to have the knowledge which supports the answer to this inquiry.

28. Set forth the records of the Office of the State's Attorney and/or Maryland State Police and/or the Federal Bureau of Investigation and/or the Drug Enforcement Administration, or the criminal justice records repository from the appropriate state, or federal agency, pertaining to the criminal activity, arrest and/or conviction of any and all witnesses the State intends to call in this cause.

Confidential Informant

29. Provide the defense with the name and address of any informant, confidential or otherwise, who was a participant in the alleged illegal act which is the basis for these charges, or who was a participant in any illegal act which formed any part of the basis for any warrant or process issued and executed in this case, or who was a participant in any illegal act which was relied upon by any law enforcement official as probable cause to make an arrest and/or search in this case.

This Motion is made in good faith and not for the purposes of delay. The requested items are in the possession of the State, or its agents, and are material and necessary to the presentation of the defense.

Respectfully submitted,

/S/ Raymond F. Weston
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on the date of filing, a copy of the foregoing was electronically filed through MDEC and served on the State's Attorney for Allegany County.

/S/ Raymond F. Weston
Raymond F. Weston